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TAGS: [ETRD](#) [USTR](#) [SA](#) [EU](#) [SZ](#)
SUBJECT: REQUESTING COORDINATED ACTION WITH
EU AND SWISS EMBASSIES ON TRANSPARENCY
IN SAUDI ARABIA'S RULE-MAKING PROCESS

REF:
[1](#)A. 07 RIYADH 1346
[1](#)B. 07 RIYADH 1347
[1](#)C. 07 RIYADH 2139
[1](#)D. 07 RIYADH 2149

Summary

[1](#)1. (U) Embassy is requested to engage with officials from the European Commission (EC) and the Swiss government in Riyadh to coordinate action to address Saudi Arabia's Ministry of Health's (MOH) failure to implement the Kingdom's world trade organization (WTO) obligations on transparency in the rule-making process with regard to the recent changes by the Ministry for prices of registered pharmaceuticals. Despite efforts by Embassy Riyadh, the Department, USTR, Commerce, and the U.S. private sector since September 2007, the MOH has yet to provide detailed information on the criteria and definitions used in the recent pricing regulation that is necessary for interested parties to have an adequate basis to assess the draft regulation and develop substantive comments. The MOH has not yet confirmed that it will provide a period of no less than 60 days to provide comments on that information as spelled out in detail in Saudi Arabia's WTO working party report. USTR has discussed the issue in detail with EC and Swiss officials, and we have agreed to request that our respective officials in Riyadh coordinate action to address this issue. USTR requests that Embassy share the non-paper on this issue with EC and Swiss officials (which has been shared with contacts in Brussels and Bern) and consider appropriate Embassy actions to ensure that Saudi Arabia implements its WTO obligations. End summary.

Objectives

[1](#)2. (U) Embassy Riyadh is requested to share the non-paper in paragraph seven on Saudi Arabia's WTO obligations on transparency in the rule-making process with EC and Swiss officials and consider appropriate Embassy actions to ensure that Saudi Arabia implements its international trade obligations in this area.

Reporting deadline

[1](#)3. (U) Embassy should report results of efforts by cable to Jason Buntin at USTR and NEA/ARP by April 21. Please slug response for USTR (Jason Buntin and Jennifer Groves), NEA/ARP (Bagwell), and EEB (Scheibe).

Background

14. (U) The Saudi MOH initially stated its intention, in October 2006, to reduce pharmaceutical prices in the Kingdom by 1 percent for each year a product has been on the market. In September 2007, the MOH stated that it would issue regulations reducing prices for more than 6,000 medicines during the September-October period of Ramadan. Although delayed for several months, the price cuts took effect on February 2, 2008.

15. (U) As a result of efforts by Embassy Riyadh, the department, USTR, Commerce, and the U.S. private sector, the MOH has via its website notified the public of the opportunity for interested parties to send suggestions on the changes directly to the ministry. However, the MOH has yet to provide detailed information on the criteria and definitions used in this pricing regulation that is necessary for interested parties to have an adequate basis to assess the draft regulation and develop substantive comments. The MOH has also not confirmed that it will provide a period of no less than 60 days to receive comments on that information as spelled out in detail in paragraph 36 of Saudi Arabia's WTO working party report in the specific context of pharmaceutical pricing and more generally in paragraph 305.

16. (U) USTR has discussed the issue in detail with EC and Swiss officials and agreed to request that our respective representatives in Riyadh coordinate action to address this issue. USTR has developed the attached non-paper to share with EC and Swiss officials and consider appropriate Embassy actions, possibly similar to the joint meeting that the EC, Swiss, and Belgian ambassadors held with the minister of health in September 2007, to ensure that Saudi Arabia

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Non-paper

17. (U) Begin text:

Saudi Arabia's WTO working party report (available at <http://www.WTO.org>) includes commitments by the Kingdom regarding transparency in the rule-making process. Paragraphs 301-305 of the report include general information and commitments by Saudi Arabia on implementation of the transparency requirements prescribed in the WTO agreements. In particular, paragraph 305 includes a commitment by Saudi Arabia to publish promptly "all laws, regulations, decrees, judicial decisions and administrative rulings of general application pertaining to or affecting customs issues, trade in goods, services, intellectual property, and the control of foreign exchange" in the umm al-Qura in a manner that fulfils WTO requirements and a commitment that "no such law, regulation or other normative act or measure would become effective or be enforced prior to such publication." Saudi Arabia also committed to "establish or designate an official website (and possibly a supplemental official journal or an expanded umm al-Qura), updated on a regular basis and readily available to WTO members, individuals, associations and enterprises, dedicated to the publication of all regulations, decisions, orders, administrative rulings of general application, and other measures pertaining to or affecting trade in goods, services and trips prior to enactment." The commitment noted that "the publication of such regulations and other measures would include, as appropriate, the names of the authorities (including contact points) responsible for implementing a particular measure and the effective date of the measure." Saudi Arabia also committed to "provide a reasonable period, i.e., no less than 60 days, for members, individuals, associations and enterprises to provide comments to the appropriate authorities before such measures were adopted, except for those regulations and other measures involving national emergency or security, or for which the publication would impede law enforcement."

Paragraph 36 of the working party report includes specific information and commitments by Saudi Arabia regarding pharmaceutical pricing including a commitment that "the ministry of health and other agencies participating in the price control and registration process would comply with Saudi Arabia's commitments on transparency and would provide adequate opportunities to interested parties to become familiar with and provide comments on draft proposals."

Saudi Arabia's ministry of health initially stated its intention in October 2006 to reduce prices of pharmaceutical products in the private market in the Kingdom, and issued similar announcements until the price reductions took effect on February 2, 2008. However, contrary to Saudi Arabia's WTO commitments noted above, none of these announcements provided the text of the government measure, including specific criteria and definitions, implementing these changes, or provided information on a process for interested parties to submit comments on the changes.

The ministry of health's website now notifies the public of an opportunity for interested parties to submit suggestions on the price changes directly to the ministry. However, the ministry has yet to provide detailed information on the criteria and definitions used as a basis for the changes that would be necessary for interested parties to have an adequate basis to assess the draft regulation and develop substantive comments. The MOH has also not yet confirmed that it will provide a period of no less than 60 days to provide comments on that information.

End text.

Point of contact

18. (U) Please contact Jason Buntin at (202) 395-9564 or jason_buntin@USTR.eop.gov for any necessary further background information or assistance to meet these objectives.
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